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State Board of Equalization

OPERATIONS MEMO

Confidential

No: 1180

Date: November 4, 2010

SUBJECT: Adjustment and Cancellation of Compliance Assessments

I. PURPOSE

This Operations Memo provides information and instructions for properly processing a tax return for a period where a billed or unbilled compliance assessment (CAS) exists. [REDACTED]

II. BACKGROUND

A CAS can be initiated when a taxpayer is delinquent in filing a tax return or fails to report tax due on the sale of fixtures and equipment when a business is sold. CAS determinations for Failure to File Returns (FFR) may not be adjusted based on new estimates. In the absence of an acceptable return filing, the determination may only be adjusted based on an audit, Field Billing Order (FBO) or comparable review of the taxpayer's records. Often a taxpayer will file a return after the issuance of a CAS. The filing of a return does not negate the issuance of the CAS. Depending on the circumstances, the CAS may or may not warrant adjustment. Determining whether an adjustment is necessary depends on the facts and/or circumstances of the taxpayer's operations and information available to the BOE.

Once a CAS has been issued and approved, it clears the delinquent period on IRIS. Once the period has been cleared, a return may not be efiled for it. Therefore, all of the procedures that follow are geared towards the receipt of a paper return filed to adjust the CAS, rather than an efiled return.

III. STATUTE OF LIMITATION

There is no statute of limitation for accepting taxpayer returns or documentation to support a Compliance Assessment Adjustment (CAS ADJ). However, refunds of any overpayments must be requested within the timeframes specified by Revenue and Taxation Code section 6902.

IV. SALES AND USE TAX DEPARTMENT RESPONSIBILITIES

A. District Office (DO) or Centralized Collection Section (CCS)

The goal of any CAS adjustment is to reflect the correct amount of tax due. When a tax return is received for a period where a CAS has been billed, it is the responsibility of the DO/CCS to determine if the CAS should be adjusted to the amount reported on the return. The

determination to adjust the CAS will be based on the type of business, supporting documentation, prior returns, or any other evidence available to the BOE. Supervisors will need to approve any adjustments based on the evidence available and comments should be entered in IRIS on the REV screen for each Financial Obligation (FO). The return should then be forwarded to the HQ Cashier Section with the wording "CAS ADJ" written on top of the front page of the return. Subsequent returns filed for the same period to correct any discrepancies will also be marked as CAS ADJ returns and not as amended returns.

If the evidence available to the BOE suggests that the CAS should not be adjusted to the amounts shown on the return, the return should still be forwarded to the Cashier Section for processing. Comments should be entered in IRIS explaining why the CAS should not be adjusted. The taxpayer should be contacted and given the opportunity to revise the return or provide substantiation for the figures submitted.

The authority to approve CAS adjustments generally resides at the Business Taxes Compliance Supervisor II level or higher. If an Administrator or Principal Compliance Supervisor temporarily authorizes a Business Taxes Compliance Specialist or Business Taxes Specialist to approve CAS ADJ assignments, an advance written notification of the delegation and its expected duration must be submitted to the Petitions Section.

Changing the start date or close-out date of an account will not cause a billed CAS to automatically adjust. An assignment should be created, approved and routed to the Petitions Section for processing. Assignment task notes should be updated if there is a change to the start date or close-out date. The basis for the change and the applicable period and method used to establish the measure of tax should be entered into comments on the REV RE screen and the assignment task notes.



CAS adjustments of more than \$50,000 require Deputy Director approval for submission to the Public Record for posting. Board Member approval is required for CAS adjustments of more than \$100,000. If a CAS adjustment exceeds \$50,000, a report should be sent to the Petitions Section listing the steps taken to confirm the accuracy of returns filed or other basis for adjustment. A claim for refund should accompany the report, if an overpayment results from an adjustment. A timely claim for refund is required for all overpayments.

B. Return Analysis Unit (RAU)

When RAU receives a tax return for a period that was included in a billed CAS for failure to file a return, the following procedures should be followed:

1. When the return is received with an effective date **prior** to the CAS
 - a. The return takes precedence. When the return is loaded into IRIS, the CAS will automatically be cancelled and the return will replace the CAS in the

primary FO. The edit on the return will be “CAS Canc” and a RAU team will handle the return.

- b. When the CAS **does not auto cancel**, RAU handles the adjustment. Reasons a CAS may not auto cancel are as follows:

- An accepted declaration of timely mailing.
- Return posted incorrectly to the wrong period or account.
- The return was originally received with no account number or period was posted as unidentified.

2. When the return received has an effective date after the CAS

- a. A return sent directly to RAU in reply to the CAS determination which has not been processed in IRIS as a Pending Taxpayers Original (PTO) should be forwarded to the Cashier Section for processing.
- b. CAS ADJ should be written on the top of the return to ensure that the Cashier Section will process the return as PTO and not a Pending Amended (PAM).

3. When the return received is for more tax than the CAS

- a. After the return is processed by the Cashier Section, it is worked by RAU. Approval from the office/section that initiated the CAS is not needed.
- b. The return will have either the CAS + ADJ or CAS + PTO edit on it. The CAS +ADJ edit is triggered when the return loads onto IRIS and the system automatically adjusts the CAS in the primary FO. The adjustment will appear on the REV SV screen. The CAS + PTO will appear on the REV FW screen.
- c. If the taxpayer filed a timely petition for redetermination of the CAS determination, RAU will create an assignment for the Petitions Section to adjust the CAS to the level of the return. The increase to the petitioned determination must be made in accordance with the Revenue and Taxation Code section 6563.
- d. If the CAS determination is final, the resulting increase will be billed by RAU.
- e. If the return contains computational errors, RAU will send a letter to the taxpayer and issue a determination if appropriate.

4. When the Return received is for less tax than the CAS

a.



b.



- c. If the return is not acceptable due to issues such as prepay problems, invalid gas credits, etc., RAU will reject the PTO and create an assignment for the office/section that initiated the CAS noting the problems found with the return. RAU will also enter comments on the FO(s) involved.

C. Petitions Section

Other than assignments received by RAU, the Petitions Section will only accept CAS ADJ assignments that have been reassigned to the Petitions Section by a DO/CCS supervisor or designated reviewer.

When Petitions receives the CAS ADJ, it is reviewed for:

- Creation of an assignment by RAU and any return edit notes and comments entered when returns are filed
- District recommendation
- Ongoing Audits
- Statute of Limitation
- Existing appeals or claims for refund
- Adjustments requiring Public Record posting or approval by the Board Members
- Penalty relief requests

- The impact on and adjustments to successors and 6829 dual determinations, and
- Duplicate return filings for different amounts.

D. Audit Determination and Refund Section

The Audit Determination and Refund Section is responsible for processing adjustments to all paid-in-full, final determinations except for relief of penalty requests, which are processed by the Petitions Section. CAS ADJ assignments are reviewed in the same manner as those processed by the Petitions Section.

V. PROPERTY AND SPECIAL TAXES DEPARTMENT RESPONSIBILITIES

The procedures noted for the Sales and Use Tax Department in this Operations Memorandum mirror the procedures for the Property and Special Taxes Department (PSTD), with the exceptions noted below. This memo should serve as a foundation for any additional internal procedures necessary for the proper administration of taxes and fees within the PSTD. This is because many of the programs administered by the PSTD are highly specialized and industry-specific.

It is the function of the PSTD compliance staff to determine whether the amounts reported on returns filed after a CAS are acceptable. Each situation should be evaluated on a case-by-case basis. Depending on the nature of the tax or fee program, the information should be based on other returns filed on the account, industry averages, information from other state agencies and information available from related Sales and Use Tax accounts, if any exist. It is the responsibility of the Business Taxes Compliance Supervisor (or their designee) to approve CAS adjustments.

The Divisions within the PSTD have equivalent internal staff dedicated to District Office Compliance, RAU and Petition functions. Functions dedicated to RAU and Petitions in preceding sections of this memorandum apply to the equivalent staff within the PSTD. As with the Sales and Use Tax Department, posting to the Public Record or Board Member approval is required for CAS adjustments exceeding \$50,000 and \$100,000 respectively. The Principal Compliance Supervisor should forward a written report to their Audit Section's staff responsible for handling petitions. The report should list the steps taken to confirm the accuracy of the returns filed or the basis for the adjustment.

VI. OBSOLESCENCE

This operations memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.

Jeffrey L. McGuire
Deputy Director
Sales and Use Tax Department

David J. Gau
Deputy Director
Property and Special Taxes Department